## REMARKS

As a result of the foregoing amendment, claim 9 has been canceled thereby obviating the formal rejection thereof.

Claim 3 has been amended to now recite that the spreading layer is made of polyester fabric as disclosed at page 5, line 5 and the liquid to be spread is an aqueous liquid as disclosed on page 2, line 23. Claim 9 also recites that the function of the polyester fabric is to spread the aqueous liquid formally. In addition, the organic solvent is recited as being a lower alcohol containing one to four carbons or a ketone and finally the amended claim 3 recites that the organic solvent is supplied on the spreading layer which has been laminated as disclosed at page 6, line 26 – page 7, line 1.

Reconsideration and withdrawal of the rejection of the claims as amended as being unpatentable under 35 U.S.C. § 103 over the Terashima et al. reference are requested. The Examiner asserts that Terashima discloses a method for producing a multi-layer analytical element that comprises the water impermeable transparent support with at least one water permeable layer and a spreading layer composed of polyester which has the function of spreading the liquid uniformly. The Examiner recognizes that Terashima does not disclose supplying an organic solvent which does not contain a critical reagent onto the spreading layer and thereafter supplying a reagent solution containing a critical reagent for an objective analysis while leaving the organic solvent on the surface of the fibers. However, the Examiner relies on the case of *ex parte* Rubin, 128 U.S.PQ 440 (Bp. App. 1959) as supporting the position that the sequential step is equivalent to the mixing step. It is submitted however that Rubin is not relevant to the present situation. The Examiner relies on *ex parte* Rubin as holding that a prior art reference for making a laminated sheet wherein a

base sheet is first coated with metallic film and thereafter impregnated with a thermostatic material was held to render obvious claims to a process using the reverse order. However, this is not the present situation. Thus, no order disclosed in Terashima is being reversed. Terashima does not disclose first applying a reagent solution and thereafter applying a solvent. Rather it discloses mixing the solvent and solution. This is not a reversal of any steps. Consequently, the holding *in re* Rubin is not relevant to the present situation.

Additionally, Terashima et al. discloses the incorporation of a self-developing substrate into a spreading layer by coating or impregnating the spreading layer with a coating solution of the self-developing substrate dissolved in an organic solvent. It is intended that the self-developing substrate is not to be brought into contact with the buffering agent in a buffer layer. When the spreading layer is laminated by lamination, the substrate may be previously incorporated. When the spreading layer is formed by coating, the coating solution for the substrate is mixed with a coating solution for the spreading layer. It is noted that the spreading layer may also contain white blocking fine particles or reagent such as a surfactant. Clearly, Terashima does not disclose nor in any way suggest supplying an organic solvent which does not contain a reagent onto the spreading layer and supplying a reagent solution while leaving the organic solvent on the surface in order to solve the problem of uneven soaking of the reagent solution as discussed on page 4, line 4.

It is apparent that Terashima et al. does not in any way suggest supplying an organic solvent which does not contain a reagent onto the spreading layer prior to supplying the reagent solution. It is clear Terashima uses the organic solvent such that the self developing substrate will not contact the buffering agent. When the self-developing substrate (p-nitrophenyl phosphate di-TRIS) contacts the buffering agent which is alkaline, the self-developing substrate is decomposed to release p-nitrophenol which is yellow. Terashima

prevents the decomposition by incorporating the buffering agent into the gelatin layer which does not permeate the alcohol and incorporating the self-developing substrate as an aqueous ethanol solution (see Example 1). On the other hand, when the light-blocking fine particles or reagents such as, the surfactant, is contacted with the buffering agent, the problem does not occur. Consequently, the passage at column 8, lines 51-55, does not teach nor suggest the necessity to supply an organic solvent which does not contain the reagent onto the spreading layer prior to supplying a self-developing substrate.

Moreover, as amended, Claim 3 requires a spreading layer made of polyester fabric which has been laminated. Accordingly, the spreading layer is not formed by coating as mentioned by the Examiner in the office action.

It should also be noted that the analytical element is used for analyzing biological samples, such as blood, which are aqueous liquid and accordingly the reagents are incorporated into the dry analytical element in general as an aqueous solution. Thus, the use of an organic solvent is normally not employed. Inasmuch as Terashima does not in any way discuss or mention the problem of unevenness in color development of the reagent or the necessity for supplying an organic solvent which does not contain a reagent onto the spreading layer prior to supplying the self developing substrate, it is clear that Terashima does not render the present claims as amended obvious under 35 U.S.C. § 103. Accordingly, this rejection is unattainable and should be withdrawn.

It is also noted that with respect to unexpected results, the example of the application clearly show the improvement obtained with the present invention, which improvements are in no way discussed or suggested by Terashima.

Accordingly, favorable reconsideration is earnestly solicited.

Respectfully submitted,

Dated: August 17, 2005

By

Jules E. Goldberg
Reg. No. 24,408
REED SMITH LLP
599 Lexington Avenue
29th Floor
New York, NY 10022-7650
(212) 521-5400

Attorney for Applicant